

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH Case No. 2013100636

v.

ENTERPRISE SCHOOL DISTRICT,

ENTERPRISE SCHOOL DISTRICT,

OAH Case No. 2013120077

v.

PARENT ON BEHALF OF STUDENT.

ORDER DENYING REQUEST FOR
CONTINUANCE

On January 10, 2014, Student filed a request to continue the dates in this matter. based upon pending assessments that have not been completed and the unavailability of counsel. On January 15, 2014, the Enterprise School District (District) filed an opposition. On January 16, 2014, Student filed a reply brief, and on January 21, 2014 the District filed a reply to Student's reply brief.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings (OAH) considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All prehearing conference and hearing dates are confirmed and shall proceed as calendared. Student asks that the case be continued because he is obtaining independent educational assessments in several areas which have not yet begun. Student details alleged failures of District to assess Student and his requests that the District to fund independent educational assessments in his complaint. Student chose to file his complaint on October 15, 2013, prior to beginning any independent assessments. Student may not now obtain a continuance because he has decided that he wants to complete assessments prior to the hearing. Student also asks for a continuance because his counsel is scheduled to be in another hearing during the dates currently scheduled. However, that case is no longer pending and no conflict exists. Accordingly, the request for continuance is denied.

IT IS SO ORDERED.

Dated: January 21, 2014

/s/

MARGARET BROUSSARD
Administrative Law Judge
Office of Administrative Hearings